

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

United States of America

v.

Gary Nelson Gaynor

Date of Original Judgment: 12/06/2005

Date of Previous Amended Judgment: 06/09/2009

(Use Date of Last Amended Judgment if Any)

Case No: 4:05-CR-1-2H

USM No: 24627-056

Thomas P. McNamara

Defendant's Attorney

ORDER REGARDING MOTION FOR SENTENCE REDUCTION PURSUANT TO 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ **DENIED.** ☐ **GRANTED** and the defendant's previously imposed sentence of imprisonment *(as reflected in the last judgment issued)* of _____ months **is reduced to** _____

Although application of the Fair Sentencing Act of 2010 retroactive amendments results in a lower guideline imprisonment range, it does not have the effect of lowering the defendant's guideline range because the low end of the revised range in Count 1 is the mandatory minimum sentence.

If the amount of time the defendant has already served exceeds this sentence, the sentence is reduced to a "Time Served" sentence, subject to an additional period of up to ten (10) days for administrative purposes of releasing the defendant.

(Complete Parts I and II of Page 2 when motion is granted)

Except as otherwise provided, all provisions of the judgment(s) dated 12/06/2005 and 06/09/2009 shall remain in effect. **IT IS SO ORDERED.**

Order Date: 3/30/12


Judge's signature

Effective Date: _____

(if different from order date)

Malcolm J. Howard, Senior U.S. District Judge

Printed name and title